

THE GEORGE WASHINGTON UNIVERSITY
Washington, D.C.

MINUTES OF A REGULAR MEETING
OF THE FACULTY SENATE HELD ON
FEBRUARY 8, 1991, IN LISNER HALL
ROOM 603

The President called the meeting to order at 2:15 p.m.

Present: President Trachtenberg, Berman, Burdetsky, Divita, East, Garris, Griffith, Gross, Gupta, Handorf, Harrington, Infeld, Kahn, Kirsch, Moore, Park, Parke, Parrish, Robbins, Robinson, Rycroft, Schiff, Trangsrud, Yezer, and Ziolkowski

Absent: Vice President French, Registrar Gaglione, Parliamentarian Steinhardt, Friedenthal, Giordano, Holmes, Keimowitz, Kenny, Leonard, Spanogle, Vontress, and Walker

APPROVAL OF MINUTES

The minutes of the regular meeting of January 18, 1991, were approved as distributed.

RESOLUTION

I. RESOLUTION 90/11, "A RESOLUTION TO AMEND AND CLARIFY THE UNIVERSITY POLICY ON MISCONDUCT IN SCIENCE AND RELATED MATTERS"

Professor Trangsrud, Chair, Professional Ethics and Academic Freedom Committee outlined the history of events leading up to the promulgation of the new University Policy on Misconduct dated January 1, 1990, and the reasons for the proposed amendments to the Policy. Before 1990, the University did not have a formal policy defining what constituted misconduct in research nor did it have formal published procedures for investigating charges of misconduct in research. The Committee on Sponsored Research, according to the Faculty Handbook, was responsible for assuring that sponsored research and other research volunteered to it conform to the standard of ethics contained in the University's policy on sponsored research. In the last few years, Congress has become increasingly concerned about the problem of misconduct in federally-funded research. Consequently, the Public Health Service in the fall of 1989 promulgated new regulations requiring that all universities that receive federal funding for certain types of scientific research promoted by the Public Health

Service, including NIH, must establish certain procedures for the reporting of misconduct in research, both for identifying such misconduct and for investigating alleged misconduct. All universities that received federal funds from the Public Health Service, including NIH, were required to promulgate such procedures by January 1, 1990, and that copies of those procedures were to be provided to the federal agency involved so that the universities would remain eligible for federal funds. In accordance with those federal requirements, President Trachtenberg, on January 1, 1990, published a University Policy on Misconduct in Science. Because these events all happened very quickly, Professor Trangsrud said that the Professional Ethics and Academic Freedom Committee did not have an opportunity last year to participate in this process. This year, for the first time, the PEAFC Committee has reviewed the procedures promulgated by President Trachtenberg.

Professor Trangsrud said the PEAFC Committee, in general, regarded this Policy largely as a welcome development because it was probably beneficial to both the faculty and the administration that there be stated procedures for the investigation of serious allegations which touch directly on the professional reputation of members of the faculty or on the personal reputation of staff or students. However, some concerns about the Policy were raised and discussed. First, there appeared to be ambiguities in the Policy about the scope and type of research involved. The PEAFC Committee concluded that all types of academic research should be covered by the Policy whether scientific in character or not and whether federally-funded or not. Secondly, the PEAFC Committee looked at the procedures called for in the Policy. No member of the Committee thought it would be wise to have two different sets of procedures--one that complied with the Public Health Service regulations and one that did not. Therefore, the Committee accepted as appropriate the thrust of the procedures contained in the Policy, except for an amendment to Paragraph 5 which deletes the phrase "if misconduct has already been confirmed." The Committee thought that that language was inappropriate because there ought to be a thorough investigation before there is a finding of either misconduct or no misconduct. Professor Trangsrud said that the third concern discussed by the Committee was the question of sanctions for misconduct in research. This matter was addressed in Resolution 90/12, which he would speak to following action on Resolution 90/11.

On behalf of the Professional Ethics and Academic Freedom Committee, Professor Trangsrud, Chair, moved the adoption of Resolution 90/11, and the motion was seconded.

Professor Parrish pointed out that in Paragraph 10 of the Policy, federal funds are protected. Since the Policy has now been broadened to include funding from any source, he asked if the Policy ought not to be amended to provide protection for non-federally funded research also. Professor Trangsrud replied that it seemed to him that the portions of this Policy which address the University's obligation to report misconduct to the federal agencies plainly do not apply to non-federally funded research. However, if "protection" of non-federally funded research meant recapture of funds that were misspent, for example, he said that that was beyond the intent of the resolution. Such situations, he thought, would be the responsibility of the faculty members or the administrative officials who oversee that process. Professor Park spoke about the danger of increasing the liability of the University to no advantage by including in the Policy aspects regarding contracting parties. He said that since the federal government insists upon this protection, the University must include that requirement in its Policy. Further discussion followed by Professors Trangsrud, Griffith, Yezer, and President Trachtenberg. The question was called, and Resolution 90/11 was adopted unanimously. (Resolution 90/11 and The University Policy on Misconduct in Science, as amended, are attached.)

II. RESOLUTION 90/12, "A RESOLUTION TO AMEND THE FACULTY CODE TO CLARIFY ITS RELATIONSHIP TO THE UNIVERSITY POLICY ON MISCONDUCT IN RESEARCH"

With reference to the question of sanctions for misconduct in research, Professor Trangsrud said that the Professional Ethics and Academic Freedom Committee discussed its concern that activities undertaken by the University in response to such allegations might give rise to appropriate faculty grievances. It might be such an investigation was undertaken for an improper purpose or it was conducted in an improper way or led to an improper or inappropriate sanction. The Faculty Code and Faculty Handbook at present, however, make no explicit reference to permissible sanctions against faculty other than termination of service. The Committee discussed whether it would be possible to develop a schedule of appropriate sanctions for different types of misconduct in research and concluded that it would not be feasible or wise to try to do so. However, the Committee concluded that a faculty member should be able to file a grievance if, for example: (1) the finding of misconduct or the sanction imposed for the misconduct was arbitrary or capricious; (2) the investigation or sanction was an act of discrimination prohibited by law; (3) the investigation or sanction was in retaliation for Code protected rights; or (4) the University failed to follow its published procedures in investigating the alleged misconduct or in imposing a sanction. However, it was

unclear to the Committee that, if a faculty member was found to have been guilty of misconduct in research or sanctioned for that, the faculty member could grieve under the theory that one's rights to academic freedom had been abridged. To clarify that ambiguity, the PEAFC Committee recommended that the Faculty Code be amended in Section X(b) to add the phrase "research or other scholarly activities" after the words "academic freedom." Professor Trangsrud said that this amendment would make it clear that such improper action would be grievable under the Faculty Code, and the faculty would be afforded appropriate protection from misconduct by those people investigating faculty members under the Policy.

On behalf of the Professional Ethics and Academic Freedom Committee, Professor Trangsrud, Chair, moved the adoption of Resolution 90/12, and the motion was seconded.

Professor Griffith said that he supported the resolution as a creative effort to try to resolve the problem of how, under the Policy, sanctions might be applied in conformity with the Faculty Code, but noted that it may provide something less than a final solution. The Faculty Code envisions only one reason for dismissal--that of adequate cause--and it doesn't provide for less than removal of tenure. It seems plausible that appropriate sanctions for misconduct in research might be less than removal of tenure for cause, and the Code does not have any procedures for dealing with lesser kinds of sanctions. Professor Griffith thought that there was some risk that if appeals were common under this amendment, it could place a considerable burden upon the grievance system, because it would be in a sense a "standardless" review. There were no clear measures by which one could judge whether or not the imposition of a penalty, per se, was arbitrary or capricious. The question was called, and Resolution 90/12 was adopted unanimously. (Resolution 90/12 is attached.)

INTRODUCTION OF RESOLUTIONS

No resolutions were introduced.

GENERAL BUSINESS

I. NOMINATION FOR ELECTION OF TWO MEMBERS OF THE BOARD OF TRUSTEES TO THE COMMITTEE ON HONORS AND ACADEMIC CONVOCATIONS

On behalf of the Executive Committee, Professor Griffith asked for the Senate's approval of the nomination of two yet-

to-be named Board of Trustee members for election to the Committee on Honors and Academic Convocations. Professor Griffith explained that the names of these Trustees have not yet been received from the Chairman of the Board. As soon as the Executive Committee receives these names, the Trustees would then be asked to join the Committee on Honors and Academic Convocations. The Senate approved the nomination.

II. REPORT OF THE EXECUTIVE COMMITTEE

On behalf of the Executive Committee, Professor Griffith reported on the following items:

(1) The reaction of the Board of Trustees' Committee on Academic Affairs to the Guidelines for Dean Searches endorsed by the Faculty Senate was less than enthusiastic. The Board Committee raised again the question of why the faculty were so reluctant to allow either students or alumni to be members of the Dean Search Committees. Under the Guidelines, ancillary committees of students and alumni would be set up to function along with the faculty search committees. Members of the Board Committee expressed their concern that this procedure might make an already cumbersome procedure even more cumbersome, and they indicated their intention to monitor the use of these Guidelines. The Executive Committee agrees that the implementation of these Guidelines requires some careful monitoring to determine whether further modifications are needed, and, therefore, will ask the Committee on Administrative Matters as They Affect the Faculty to undertake this task.

(2) On January 22, 1991, the Faculty Assembly approved Senate Resolution 90/5 to amend the Faculty Organization Plan to change the frequency of stated meetings of the Faculty Assembly from two to one per year.

(3) The response of President Trachtenberg to Resolution 87/10 was received recently. This resolution recommended modifying the Faculty Code to provide for more faculty consultation in the appointment of administrators whose positions relate to academic matters, and to add a final clause that states that "Presidents shall retain office only as long as they retain the confidence of the Faculty Assembly." The President informed the Executive Committee that he thought the resolution was stale since some parts of it referred to officers whose positions were no longer part of his administration and that basically he thought the procedures the Senate has for consultation on academic appointments were adequate. In sum, the President stated that he would prefer to leave this resolution, as did his predecessor, simply on the record without action. Resolution 87/10 will be returned to the Professional Ethics and Academic

Freedom Committee for reconsideration and with a request that the Committee consider drafting language, amending the Faculty Organization Plan, which would provide a process whereby the Senate by a supermajority vote could forward directly to the Board any resolutions requiring the Board's attention which have been rejected by the President or not returned within a six-month period.

(4) A request was received by the Executive Committee from Valerie Epps, Director of the Multicultural Student Services Center, to invite any members of the Faculty Senate and/or faculty to participate in the Coalition Prejudice Reduction Workshop which is designed "to train the trainers." The Joint Committee of Faculty and Students also has been asked by the Executive Committee to suggest names of faculty who would be willing to participate in this enterprise.

(5) A Report from the Special Committee on the Future Utilization of Non-Tenure-Accruing Appointments is expected shortly. This report will accompany the resolution for action by the Senate at its March 8th meeting. This is a very important and complicated resolution and the Executive Committee urges Senate members to review the resolution and the report very carefully before the March Senate meeting.

(6) The Special Committee conducting a self-study of the Senate which was due to report in March has asked leave to delay its report until April.

(7) Professor Holmes, Chair of the Committee on University and Urban Affairs, has informed the Chair of the Executive Committee that he has arranged a meeting of the Committee with the top political leadership of the District of Columbia to examine the question of what kind of contributions GW faculty might make to the solution of problems troubling the District. It is hoped that some positive reaffirmation of the relationship between the University and its urban community will be realized as the result of this meeting.

(8) The Executive Committee will soon begin its review of the mission statements of the Senate Standing Committees.

(9) The next meeting of the Executive Committee will be February 22, 1991, to set the agenda for the March 8th Senate meeting. Committee Chairs are urged to forward resolutions to the Executive Committee as soon as possible since the last meeting of this Session is April 12th.

BRIEF STATEMENTS

Professor Kirsch, on behalf of the Committee on Appointment, Salary and Promotion Policies, noted that the Committee has been awaiting data on faculty salaries for the present year. This data has now been received and will be presented to the Senate at its March meeting.

ADJOURNMENT

Upon motion made and seconded, President Trachtenberg adjourned the meeting at 3:05 p.m.

A handwritten signature in cursive script, reading "J. Matthew Gaglione". The signature is written in dark ink and is positioned above the printed name and title.

J. Matthew Gaglione
Registrar

[Any inquiries about this resolution should be directed to
Professor Trangsrud, Chair, PEAFC Committee, Ext. 4-8173]

A RESOLUTION TO AMEND AND CLARIFY THE UNIVERSITY POLICY ON
MISCONDUCT IN SCIENCE AND RELATED MATTERS (90/11)

WHEREAS, The Faculty Senate Committee on Academic Freedom
and Professional Ethics has reviewed the new University Policy on
Misconduct in Science dated January 1, 1990; and

WHEREAS, the Committee believes that certain amendments to
the University Policy on Misconduct in Science would be
appropriate to clarify what activities are subject to this Policy
and what procedures are required by the Policy; NOW THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON
UNIVERSITY:

(1) That the Faculty Senate recommends to the President of
the University that the University Policy on Misconduct in
Science be amended as follows:

(a) That the title of the Policy be changed to "The
University Policy on Misconduct in Research;"

(b) That Paragraph 1 of the Policy be deleted and the
following Paragraph be substituted in its place:

"1. The term "misconduct" or "misconduct in
research" means fabrication, falsification,
plagiarism, or other practices that seriously
deviate from those that are commonly accepted
within the relevant academic or scientific
community for proposing, conducting, or reporting
research. It does not include honest error or
honest differences in interpretations of judgments
of data."

(c) That Paragraph 5 of the Policy be amended by
replacing the word "investigation" at the end of the
second sentence with the word "inquiry" and by
replacing the phrase "or, if misconduct has already
been confirmed," in the third sentence with the word
"and".

Professional Ethics and Academic Freedom Committee
January 21, 1991

Adopted, February 8, 1991

NOTE: This Policy reflects amendments adopted by the Faculty Senate,
February 8, 1991, by Resolution 90/11.

THE GEORGE WASHINGTON UNIVERSITY
INTERDEPARTMENTAL MEMORANDUM



January 1, 1990

TO: Vice Presidents, Deans, Department Chairs, and Faculty

FROM: President Stephen Joel Trachtenberg

SUBJECT: Misconduct-in-Science-Policy
The University Policy on
Misconduct in Research

Stephen Trachtenberg

As a recipient of Federal funds, the University is required to file an annual assurance regarding procedures for dealing with and reporting possible misconduct in science. The following statements are reaffirmed by The George Washington University in fulfillment of these requirements. Faculty and staff are urged to bear in mind the importance of compliance with the relevant policies and procedures.

1. ~~The terms "misconduct" or "misconduct in science" means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.~~

The term "misconduct" or "misconduct in research" means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the relevant academic or scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations of judgments of data.

2. An allegation of misconduct in research will be referred to the Associate Vice President for Academic Affairs and Research, who will review the allegation and conduct an informal inquiry. An "inquiry" consists of information-gathering and preliminary fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation. This inquiry shall include discussion with the complainant and the investigator accused of misconduct. The initial inquiry shall be held confidential, but the Associate Vice President for Academic Affairs and Research shall consult appropriate advisors and/or review committees concerning accepted standards of practice. The privacy of a person who in good faith reports apparent misconduct shall be protected. An inquiry into an allegation of misconduct in research shall be completed within 60 calendar days of its initiation unless circumstances clearly warrant a longer period. A written report shall be prepared that states what evidence was reviewed, summarizes relevant interviews, and includes the conclusions of the inquiry. The individual(s) against whom the allegation was made shall be given a copy of the report of inquiry. If they comment on that report, their comments may be made part of the record. To the maximum extent possible the affected individual(s) will be afforded confidential treatment, a prompt and thorough investigation, and an opportunity to comment on allegations and findings of the inquiry and/or the investigation.

3. When, on the basis of the initial inquiry, a determination is made that an investigation is warranted, and to the extent required by Federal law and regulation, the Associate Vice President for

Academic Affairs and Research shall notify the Director, Office of Scientific Integrity (OSI), a component of the Office of the Director of the National Institutes of Health, and such other parties as may be required by the funding agency. In addition, when PHS funding is involved, the Associate Vice President for Academic Affairs and Research is responsible for notifying OSI at any stage of the inquiry or investigation if any of the following conditions exist:

- (1) There is an immediate health hazard involved;
- (2) There is an immediate need to protect Federal funds or equipment;
- (3) There is an immediate need to protect the interests of the person(s) making the allegations or other individual(s) who is the subject of the allegations as well as his/her co-investigators, if any;
- (4) It is probable that the alleged incident is going to be reported publicly;
- (5) There is a reasonable indication of possible criminal violation. In that instance, the Associate Vice President for Academic Affairs and Research must inform OSI within 24 hours of obtaining that information, and OSI will immediately notify the Office of the Inspector General.

4. In the event the initial inquiry does not support an allegation of misconduct, the Associate Vice President for Academic Affairs and Research will counsel the complainant and the investigator concerned, and the issue will be closed. The finding(s) and the reason(s) not to request formal investigation shall be documented. Such records shall be maintained in a secure manner for a period of at least three years after the termination of the inquiry.

5. If the initial inquiry warrants a formal investigation, the Associate Vice President for Academic Affairs and Research will inform the Vice President for Academic Affairs of the complaint and request a formal investigation. The investigation will commence within 30 days of the completion of the investigation. ~~An~~ inquiry. "investigation" is a formal examination and evaluation of relevant facts to determine whether misconduct has taken place and ~~or, if~~ ~~misconduct has already been confirmed~~, to assess its extent and consequences or determine appropriate action. If Federal funding is involved, the Associate Vice President for Academic Affairs and Research shall notify OSI, and shall keep the OSI apprised of any developments during the course of the investigation as required.

6. The Vice President for Academic Affairs will immediately appoint an ad hoc committee including members with appropriate expertise to conduct the investigation or refer the matter to an existing committee with established procedures for responding to misconduct in science concerning the use of humans or animals and will ensure that requirements of the sponsor for notification and reporting are addressed. In appointing such a committee, the Vice

President for Academic Affairs will take appropriate precautions against real or apparent conflicts of interest on the part of those involved in the inquiry or investigation.

7. The committee will act expeditiously to investigate the alleged misconduct, with appropriate consideration given to providing adequate opportunity for the investigator accused of misconduct to develop a full response to the allegation. The committee may solicit the advice of appropriate intramural and external consultants. During the course of the investigations, the researcher accused of misconduct may be advised, but not represented by legal counsel.

8. At the conclusion of the investigation, the committee will prepare a report for submission to the Vice President for Academic Affairs. The report should ordinarily be issued within 120 days of the initiation of the investigation. This includes conducting the investigation, preparing the report of findings, making that report available for comment by the subjects of the investigation, and submitting the report to the OSI, if required. The report will address the circumstances of the complaint, the findings of the investigation and make recommendations for actions to redress the consequence of the misconduct, if demonstrated, in accordance with provisions of the Faculty Code or the Manual of Personnel policies for the Use of Supervisory Staff. A copy of the report will be provided to the investigator accused of misconduct and to OSI if Federal funding is involved. If they can be identified, the person(s) who raised the allegation will be provided with those portions of the report that address their role and opinions in the investigation. The documentation prepared to substantiate the investigation's findings will be maintained in a secure location for a period of at least three years after the terminations of the investigation, or longer if required by law or regulation.

9. Further, the University will impose appropriate sanctions on individuals when the allegation of misconduct has been substantiated.

10. Appropriate interim actions will be taken to protect Federal funds and insure that the purposes of the Federal financial assistance are carried out.

11. Where the investigator accused of misconduct is a registered student, and the alleged misconduct is associated with work contributing to the formal academic program of the student, the issue will also be addressed in accordance with University policies relating to academic dishonesty and student conduct.

12. The University will undertake diligent efforts, as appropriate to restore the reputations of persons alleged to have engaged in misconduct when allegations are not confirmed, and also undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

[Any inquiries about this resolution should be directed to
Professor Trangsrud, Chair, PEAFC Committee, Ext. 4-8173]

A RESOLUTION TO AMEND THE FACULTY CODE TO CLARIFY ITS
RELATIONSHIP TO THE UNIVERSITY POLICY ON MISCONDUCT
IN RESEARCH (90/12)

WHEREAS, the Faculty Senate Committee on Academic Freedom and Professional Ethics has reviewed the existing University Policy on Misconduct in Science dated January 1, 1990 ["the Policy"], and proposed certain amendments to the Policy as described in a previous resolution; and

WHEREAS, the Committee has reviewed the relationship between the Policy and the existing Faculty Code and believes that an amendment to the Faculty Code is appropriate to make clear that improper University actions related to the University Policy on Misconduct in Science are grievable under the Faculty Code; NOW
THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

That the Faculty Senate recommends to the President and to The George Washington University Board of Trustees that the phrase "research or other scholarly activities," be added after the phrase "academic freedom," in Section X - B of the Faculty Code.

Professional Ethics and Academic Freedom Committee
January 21, 1991

Adopted, February 8, 1991

THE GEORGE WASHINGTON UNIVERSITY
Washington, D.C.

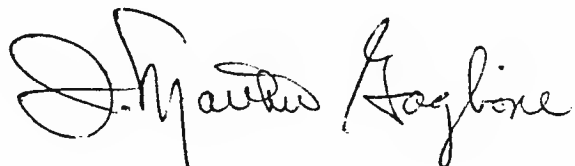
The Faculty Senate

January 28, 1991

The Faculty Senate will meet on Friday, February 8, 1991, at 2:10 p.m. in Lisner Hall 603.

AGENDA

1. Call to order
2. Approval of the minutes of the regular meeting of January 18, 1991
3. Resolutions:
 - (a) A RESOLUTION TO AMEND AND CLARIFY THE UNIVERSITY POLICY ON MISCONDUCT IN SCIENCE AND RELATED MATTERS (90/11)*; Professor Roger H. Trangsrud, Chair, Committee on Professional Ethics and Academic Freedom (Resolution 90/11 and University Policy on Misconduct in Science are attached.)
 - (b) A RESOLUTION TO AMEND THE FACULTY CODE TO CLARIFY ITS RELATIONSHIP TO THE UNIVERSITY POLICY ON MISCONDUCT IN RESEARCH (90/12)*; Professor Roger H. Trangsrud, Chair, Committee on Professional Ethics and Academic Freedom (Resolution 90/12 is attached.)
- * [A Report by the Professional Ethics and Academic Freedom Committee, covering above Resolutions 90/11 and 90/12, is attached.]
4. Introduction of Resolutions
5. General Business:
 - (a) Nomination for election of two members of the Board of Trustees to the Committee on Honors and Academic Convocations
 - (b) Report of the Executive Committee: Professor William B. Griffith, Chair
6. Brief Statements
7. Adjournment



J. Matthew Gaglione
Registrar

[Any inquiries about this resolution should be directed to
Professor Trangsrud, Chair, PEAFC Committee, Ext. 4-8173]

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INTERDEPARTMENTAL MEMORANDUM



January 1, 1990

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SUBJECT: Misconduct in Science Policy

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4. In the event the initial inquiry does not support an allegation of misconduct, the Associate Vice President for Academic Affairs and Research will counsel the complainant and the investigator concerned, and the issue will be closed. The finding(s) and the reason(s) not to request formal investigation shall be documented. Such records shall be maintained in a secure manner for a period of at least three years after the termination of the inquiry.

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6. The Vice President for Academic Affairs will immediately appoint an ad hoc committee including members with appropriate expertise to conduct the investigation or refer the matter to an existing committee with established procedures for responding to misconduct in science concerning the use of humans or animals and will ensure that requirements of the sponsor for notification and reporting are addressed. In appointing such a committee, the Vice

President for Academic Affairs will take appropriate precautions against real or apparent conflicts of interest on the part of those involved in the inquiry or investigation.

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8. At the conclusion of the investigation, the committee will prepare a report for submission to the Vice President for Academic Affairs. The report should ordinarily be issued within 120 days of the initiation of the investigation. This includes conducting the investigation, preparing the report of findings, making that report available for comment by the subjects of the investigation, and submitting the report to the OSI, if required. The report will address the circumstances of the complaint, the findings of the investigation and make recommendations for actions to redress the consequence of the misconduct, if demonstrated, in accordance with provisions of the Faculty Code or the Manual of Personnel policies for the Use of Supervisory Staff. A copy of the report will be provided to the investigator accused of misconduct and to OSI if Federal funding is involved. If they can be identified, the person(s) who raised the allegation will be provided with those portions of the report that address their role and opinions in the investigation. The documentation prepared to substantiate the investigation's findings will be maintained in a secure location for a period of at least three years after the terminations of the investigation, or longer if required by law or regulation.

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[Any inquiries about this resolution should be directed to
Professor Trangsrud, Chair, PEAFC Committee, Ext. 4-8173]

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IN RESEARCH (90/12)

WHEREAS, the Faculty Senate Committee on Academic Freedom and Professional Ethics has reviewed the existing University Policy on Misconduct in Science dated January 1, 1990 ["the Policy"], and proposed certain amendments to the Policy as described in a previous resolution; and

WHEREAS, the Committee has reviewed the relationship between the Policy and the existing Faculty Code and believes that an amendment to the Faculty Code is appropriate to make clear that improper University actions related to the University Policy on Misconduct in Science are grievable under the Faculty Code; NOW THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

That the Faculty Senate recommends to the President and to The George Washington University Board of Trustees that the phrase "research or other scholarly activities," be added after the phrase "academic freedom," in Section X - B of the Faculty Code.

Professional Ethics and Academic Freedom Committee
January 21, 1991

TO: THE FACULTY SENATE

FROM: PROFESSOR TRANGSRUD, CHAIR
FACULTY SENATE COMMITTEE ON PROFESSIONAL ETHICS AND
ACADEMIC FREEDOM

DATE: JANUARY 21, 1991

RE: REPORT ON UNIVERSITY POLICY ON MISCONDUCT IN SCIENCE

The following Report is offered in support of Resolution 90/11, A Resolution to Amend and Clarify the University Policy on Misconduct in Science and Related Matters, and Resolution 90/12, A Resolution to Amend the Faculty Code to Clarify its Relationship to the University Policy on Misconduct in Research. These two resolutions were unanimously recommended by the Committee on Professional Ethics and Academic Freedom for consideration by the Faculty Senate.

Before voting to recommend the two resolutions the Committee discussed the apparent scope of the new University Policy on Misconduct in Science, the specific procedures contained in the new Policy, the relationship of this Policy to the existing Faculty Code, and what action by the committee and the Faculty Senate would be appropriate in the circumstances.

No formal votes were taken by the committee on the items enumerated below, but it appeared that a consensus existed on several points summarized below.

1. Federal law requires all academic institutions who receive federal funds for certain kinds of scientific research to establish a formal policy and procedure for identifying and reporting misconduct in federally funded research. If the University and the faculty doing such research wish to continue to receive federal funding [and they do], then faculty doing such research must be subject to a policy relating to misconduct in research similar to the Policy actually issued by President Trachtenberg on January 1, 1990.

SCOPE OF THE POLICY ON MISCONDUCT IN RESEARCH

2. Federal law does not require that a university's policy on misconduct in research extend to non-federally funded research. However, it would be anomalous, confusing, inequitable, and unwise for the same type of misconduct in research to be treated differently depending upon whether the research was federally funded or not. Therefore, any GW University policy on misconduct in research should apply to all faculty alike regardless of whether the research is federally funded or not.

3. The new GW Policy is ambiguous as to what type of research it applies to. The introductory paragraph of the new Policy describes it as a "Misconduct in Science Policy" whose procedures relate to misconduct in science arising out of federally funded research. Paragraph 1 of the Policy

defines "misconduct" or "misconduct in science" to be certain activities which deviate from accepted standards of research "within the scientific community." All this would imply that the Policy applies only to scientific research and not to research done, for example, by English Professors or Law Professors. On the other hand, other portions of the Policy, especially Paragraph 2, state that "misconduct in research" is covered by the Policy which suggests that non-scientific research is subject to the Policy. Paragraph 5 also calls for certain action to be taken "If federal funding is involved" implying the Policy may also apply when no such funding is involved.

4. The ambiguities described above should be clarified so it is clear what type of research is subject to the Policy. Specifically, all types of academic research should be covered by the Policy whether scientific in character or not and whether federally funded or not. See Resolution (90/11) Part 1 (a) and (b).

PROCEDURES FOR INVESTIGATING MISCONDUCT

5. The specific procedures for investigating misconduct contained in the GW Policy are largely, but not entirely, drawn from and required by the federal regulations under which grants are now made to academic institutions. To continue to qualify for federal research grants, all investigation procedures required by federal law must remain part of the GW Policy.

6. The GW Faculty Code and Faculty Handbook establish no explicit procedures for investigating or remedying faculty misconduct in research. The Faculty Handbook states only that the University Committee on Sponsored Research is responsible for assuring that all sponsored research and all other research "which is volunteered to it" shall conform to the standard of ethics set forth in the sponsored research policy of the University. To our knowledge the University Committee on Sponsored Research does not have published procedures for investigating alleged misconduct in research.

7. The new GW Policy on Misconduct in Science is a welcome development to the extent it formalizes and makes explicit the procedures which the University Administration will be obliged to follow when investigating alleged misconduct in research. In the main the Committee accepted as appropriate the procedures contained in this Policy. The Committee did object, however, to the language in Paragraph 5 (i.e. "if misconduct has already been confirmed") which suggests that a finding of misconduct could be made by someone without a formal investigation as described in Paragraphs 6-8. Accordingly, the Committee recommends that this language be deleted from Paragraph 5. See Resolution (90/11) Part 1 (c).

SANCTIONS FOR MISCONDUCT IN RESEARCH

8. The new GW Policy provides that the findings of the ad

hoc committee investigating alleged misconduct, any report prepared by this ad hoc committee, and any recommendations for actions to redress the consequences of misconduct will be made in accordance with the Faculty Code. ¶8. The Policy further states that "the University will impose appropriate sanctions on individuals when the allegation of misconduct has been substantiated." ¶9. The Faculty Code and Faculty Handbook at present, however, make no explicit reference to permissible sanctions against faculty other than termination of service. Faculty Code, V.

9. Our committee discussed whether it would be possible to develop a schedule of appropriate sanctions for different types of misconduct in research and concluded that it would not be feasible or wise to try and do so. The appropriateness of a finding of misconduct or of a particular sanction can fairly be assessed only with a full knowledge of all of the circumstances attending a specific allegation of misconduct. Accordingly, our committee concluded that a faculty member should be able to file a grievance if, for example: (1) the finding of misconduct or the sanction imposed for the misconduct was arbitrary or capricious; (2) the investigation or sanction was an act of discrimination prohibited by law; (3) the investigation or sanction was in retaliation for Code protected rights; or (4) the University failed to follow its published procedures in investigating the alleged misconduct or in imposing a sanction.

10. Our committee discussed whether such matters would be grievable under the Faculty Code as it reads today and determined that it was uncertain whether such matters would be grievable. See Faculty Code, X, B. Accordingly, our Committee recommends that an amendment to the Faculty Code be made to remove this uncertainty and to make clear that such improper action would be grievable under the Faculty Code. See Resolution (90/12).